

POLIVY, LOWRY & CLAYTON, LLC

ATTORNEYS AT LAW
SIX CENTRAL ROW-SECOND FLOOR
HARTFORD, CT 06103 USA

Telephone
+1 (860) 560-1180

Telecopier
+1 (860) 560-1354

TESTIMONY OF HOUSTON PUTNAM LOWRY IN OPPOSITION TO HB: 6913 – AN ACT CONCERNING COVENANTS NOT TO COMPETE

This testimony is submitted in opposition to HB: 6913 – An Act Concerning Covenants Not To Compete. I am an attorney who practices in this area with some degree of regularity.

First of all, this bill is unacceptably vague. Like motherhood and apple pie, no one can be opposed to it...until a court needs to enforce it. Then on one knows what it means. The bill contains absolutely no standards from an objective sense. For instance:

1. The act concerns “certain employees.” What does that mean? There are no standards to determine what constitutes a “certain employee”. Who should this bill protect?
2. The bill prohibits “unfair covenants not to compete”. How does one determine what constitutes an “unfair covenant[] not to compete”? It is in the eye of the beholder.

Frankly, I prefer HB-6914, which would prohibit employers from forcing employees from signing covenants not to compete if their income was below a certain (unspecified level). If an employee is being paid minimum wage, I don't think they should be allowed to sign a non-compete agreement as a matter of public policy. The standards contained in HB-7038 are comprehensive and provide objective standards (although they do not mention a wage threshold). I see no reason to give physicians a special status as does SB-377.

I request the Labor Committee **NOT** report this bill to the General Assembly.